

Exhibit 7



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June 15, 2015

VIA FAX AND PRIORITY U.S. MAIL

Food and Drug Administration
Division of Freedom of Information
Office of the Executive Secretariat, OC
5630 Fishers Lane, Room 1035
Rockville, MD 20857
Fax: (301) 827-9267.

Office of Information Policy (OIP)
U.S. Department of Justice
Suite 11050
1425 New York Avenue, N.W.
Washington, D.C. 20530
Fax: (202) 514-1009
E-mail: OIP.ComplianceInquiry@usdoj.gov

RE: FOIA REQUEST

To whom it may concern:

This is a formal request for information pursuant to the Freedom of Information Act of 1996. The following is requested:

Copies of the documents seized by FDA and listed in Exhibit A, a return of the Search Warrant filed by FDA in Case 3:13-mj-00750-BK, including:

- a. Control # 18
- b. Control # 19
- c. Control # 20
- d. Control # 21
- e. Control # 22
- f. Control # 27
- g. Control # 30
- h. Control # 31 (excluding accounts payable)
- i. Control # 33
- j. Control # 42
- k. Control # 43
- l. Control # 44
- m. Control # 45
- n. Control # 46
- o. Control # 47
- p. Control # 55

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- q. Control # 56 (excluding production information other than for Jack3d, Versa-1 or any of the OxyElite Pro products)
- r. Control # 58
- s. Control # 59 (excluding financial documents)
- t. Control # 60
- u. Control # 61
- v. Control # 62
- w. Control # 63
- x. Control # 64
- y. Control # 65
- z. Control # 66
- aa. Control # 67
- bb. Control # 68
- cc. Control # 69
- dd. Control # 78
- ee. Control # 79
- ff. Control # 80
- gg. Control # 81 (excluding financial stats, tax returns, bank account records, and bank statements)
- hh. Control # 82 (excluding Budget Q4 2013 file)
- ii. Control # 83
- jj. Control # 84 (excluding production specs other than for Jack3d, Versa-1 or any of the OxyElite Pro products)
- kk. Control # 86
- ll. Control # 88
- mm. Control # 89
- nn. Control # 90
- oo. Control # 91
- pp. Control # 93
- qq. Control # 94
- rr. Control # 95
- ss. Control # 96
- tt. Control # 97 (excluding everything but OxyElite records, emails sales orders and international orders)
- uu. Control # 98
- vv. Control # 99
- ww. Control # 100
- xx. Control # 101
- yy. Control # 105 (excluding sample packs and bottles)
- zz. Control # 108
- aaa. Control # 109
- bbb. Control # 110
- ccc. Control # 111
- ddd. Control # 112
- eee. Control # 115
- fff. Control # 116

ggg. Control # 128
 hhh. Control # 129
 iii. Control # 133
 jjj. Control # 135

In order to avoid unnecessary delays in the processing of this request we are prepared to explain why we are entitled to the above documents. As you know, “[u]nder the FOIA . . . all documents in the possession of government agencies are available to members of the public, unless the documents are specifically exempted.” Department of Justice v. Julian, 486 U.S. 1, 8, 108 S.Ct. 1606, 1610, 100 L.Ed.2d 1 (1988). We are aware the DOJ and the FDA have come into possession of the above documents by virtue of a warrant issued in Case 3:13-mj-00750-BK. Thus, unless an exemption applies we are entitled to the documents seized.

Of the exemptions listed in 5 U.S.C.A. § 552 (b), only three are potentially relevant:

Exemption 3

“(3) specifically exempted from disclosure by statute.” 5 U.S.C.A. § 552(b)(3).

While exemption 3 incorporates Fed. R. Crim. Proced 6(e), providing for secrecy of grand jury proceedings, “[T]here is no *per se* rule against disclosure of any and all information which has reached the grand jury chambers,’ *Lopez*, 393 F.3d at 1349, let alone any and all information which ‘could’ reach the grand jury, *see* **132 *1101 *In re Sealed Case*, 192 F.3d 995, 1001–03 (D.C.Cir.1999) (per curiam); *Wash. Post Co. v. Dep’t of Justice*, 863 F.2d 96, 100 (D.C.Cir.1988); *see also Stolt–Nielsen Transp. Grp. Ltd.*, 534 F.3d at 732 (‘[T]he government may not bring information into the protection of Rule 6(e) and thereby into the protection afforded by Exemption 3, simply by submitting it as a grand jury exhibit.’).” Citizens for Responsibility & Ethics in Washington v. U.S. Dep’t of Justice, 746 F.3d 1082, 1100-01 (D.C. Cir. 2014)

The aforementioned documents would not reveal any protected or secret aspect of any pending grand jury investigation since the documents above were obtained from USPLabs, LLC pursuant to a warrant. They do not reveal testimony of witnesses, identities of witnesses, the strategy of the DOJ in prosecuting any action or the deliberation or questions from jurors. Citizens for Responsibility & Ethics in Washington v. U.S. Dep’t of Justice, 746 F.3d 1082, 1100 (D.C. Cir. 2014) citing Hodge v. FBI, 703 F.3d 575, 580 (D.C.Cir.2013). In fact, the documents themselves would not even reveal the existence of any pending grand jury proceeding. They were obtained pursuant to a warrant that was filed publicly. Because the documents speak for themselves, were generated by a third party and exist independently of any grand jury proceeding Fed. R. Crim. Proced. 6(e) and in turn exemption 3 to FOIA do not prevent disclosure.

Exemption 4

“(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential.” 5 U.S.C.A. § 552 (b)(4).

We are mindful that some of the documents obtained pursuant to the warrant may contain confidential information or trade secrets. We have removed from the list clearly protected financial information such as bank account information, taxes, etc. As to any remaining confidential information or trade

secrets, we have entered into a confidentiality agreement entered by a federal judge in the District of Hawaii. (Exhibit B.) We agree to designate and treat all documents produced pursuant to this FOIA request as confidential pursuant to the terms of our confidentiality agreement. They will be used for purposes of trial in these civil actions and will not be disclosed to any non-parties. We will not file them openly on any docket or otherwise make them available to the public. In the event you believe this is not sufficient to alleviate confidentiality concerns we would permit confidential portions of the above documents to be redacted, although given the existence of the confidentiality order we would prefer they be produced without redactions.

At any rate, we believe any product information about either the DMAA products (Jack3d or OxyElite Pro) or the aegeline products (OxyElite Pro Super Thermo, OxyElite Pro Super Thermo Powder, OxyElite Pro Ultra Intense Thermo and Versa-1) are not confidential or trade secrets since those products were recalled and are no longer marketed. USPLabs cannot have a protected interest in products no longer being marketed. Moreover, although it is not possible to tell in the abstract, it seems probable that much of what was seized may have already been disclosed in this litigation. Elec. Frontier Found. v. Dep't of Commerce, 58 F. Supp. 3d 1008, 1017 (N.D. Cal. 2013).

As to privilege, we understand all documents have been run through a TAIN'T panel and so this should not be an issue.

Thus, while we believe most if not all of the documents requested are not subject to exemption 4 we believe the entered confidentiality order will alleviate any residual concerns, and if that is insufficient, we would ask confidential portions be redacted.

Exemption 7

“(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual.” 5 U.S.C.A. § 552 (b)(7) (emphasis added.)

In the interest of thoroughness we will discuss each in turn.

Exemption 7(A)

Since the documents sought exist independently of any grand jury or ongoing criminal investigation, in that they were documents created by USP and do not involve strategies of the DOJ, names or testimony of grand jury witnesses, their disclosure could not impact any enforcement proceeding.

Exemption 7(B)

It is difficult to imagine how disclosure of USP's own documents would deprive them of a fair trial should one ever be initiated. However, as above, we will agree to keep all documents confidential pursuant to our confidentiality order.

Exemption 7 (C)

As far as we know no personal information is contained in the documents. If such information is present we ask it be redacted.

Exemption 7 (D)

Since these are documents seized from USPLabs itself there are no confidential source issues.

Exemption 7 (E)

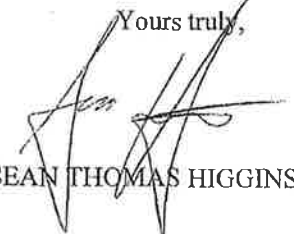
Since these are documents seized from USPLabs itself there are no law enforcement procedures or techniques at issue.

Exemption 7 (F)

Since these are business documents seized from USPLabs itself there is no likelihood that disclosure could reasonably be expected to endanger anyone's life or safety.

We are open to a dialogue to safeguard any other concerns you may have. And, of course, this office is happy to pay all reasonable fees incurred in fulfilling this request, including limitations. If you have any questions or concerns, please do not hesitate to contact our office.

Yours truly,



SEAN THOMAS HIGGINS, ESQ.

EXHIBIT A

GOV-01557310

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United States District Court

NORTHERN

DISTRICT OF

TEXAS

In the Matter of the Search of

(Name, address or brief description of person, property or premises to be searched)

SEARCH WARRANT

CASE NUMBER: 3:13-MJ-750-BK

USP Labs LLC
10761 King William Drive
Dallas, TX 75220

To: Special Agent, Chad Medaris, Food and Drug Administration (FDA), Office of Criminal Investigations (OCI) and any Authorized Officer of the United States

Affidavit(s) having been made before me by Special Agent Chad Medaris has reason to believe that on the person of or XX on the property or premises known as (name, description and/or location)

(SEE ATTACHMENT A).

in the NORTHERN District of TEXAS there is now concealed a certain person or property, namely (describe the person or property to be seized)

(SEE ATTACHMENT B).

I am satisfied that the affidavit(s) and any recorded testimony establish probable cause to believe that the person or property so described is now concealed on the person or premises above-described and establish grounds for the issuance of this warrant.

YOU ARE HEREBY COMMANDED to search on or before

November 5, 2013

(not to exceed 14 days) the person or place named above for the person or property specified, serving this warrant and making the search (in the daytime - 6:00 A.M. to 10:00 P.M.) ~~(at any time in the day or night)~~ as I find reasonable cause has been established and if the person or property be found there to seize same, leaving copy of this warrant and receipt for the person or property taken, and prepare a written inventory of the person or property seized and promptly return this warrant to RENÉE HARRIS TOLIVER, United States Magistrate Judge as required by law.

November 1, 2013 at 10:00 a.m.
Date and Time Issued

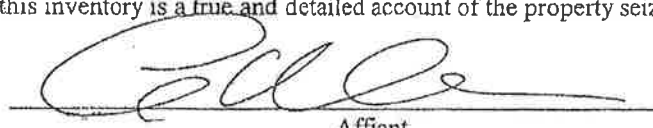
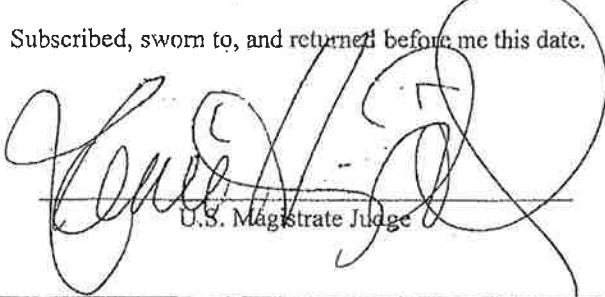
at

Dallas, Texas
City and State

RENÉE HARRIS TOLIVER
United States Magistrate Judge
Name and Title of Judicial Officer

[Signature]
Signature of Judicial Officer

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RETURN		
DATE WARRANT RECEIVED	DATE AND TIME WARRANT EXECUTED	COPY OF WARRANT AND RECEIPT FOR ITEMS LEFT WITH
11-1-2013	11-6-2013	Mike Vhl-Company Attny -
INVENTORY MADE IN THE PRESENCE OF		
SA Wade Moon FDA-OCT		
INVENTORY OF PROPERTY SEIZED PURSUANT TO THE WARRANT		
See Attached		
<div style="text-align: center;"><p>U.S. DISTRICT COURT NORTHERN DISTRICT OF TEXAS FILED NOV - 1 2013 CLERK, U.S. DISTRICT COURT by <u>AR</u> Deputy</p></div>		
CERTIFICATION		
I Swear that this inventory is a true and detailed account of the property seized by me on the warrant.		
<div style="text-align: center;"> _____ Affiant</div>		
Subscribed, sworn to, and returned before me this date.		
<div style="text-align: center;"> _____ U.S. Magistrate Judge</div>		<div style="text-align: center;"><u>11-7-2013</u> Date</div>

GOV-01557312

Inventory Listing of All Items Seized at Search Warrant Site

Site Name: USP LABS LLC
10761 KING WILLIAM DRIVE
DALLAS, TEXAS 75220

Investigation Number:

Report Date: Thursday, November 07, 2013

Starting Date and Time: 11/06/2013 09:30 AM

Ending Date and Time: 11/06/2013 08:10 PM

Control #:	1	Evidence Box:	1
Location:	WAREHOUSE	Locator Code:	R
Found:	SE CORNER FILE CABINET		
Description:	Seized Per Warrant PACKING/SHIPPING/RECEIVING RETURN DOCS.		
Control #:	2	Evidence Box:	1
Location:	WAREHOUSE	Locator Code:	R
Found:	SE CORNER FILE DESK		
Description:	Seized Per Warrant SYSTEM USER NAME AND PASSWORD		
Control #:	3	Evidence Box:	2
Location:	WAREHOUSE	Locator Code:	R
Found:	SE CORNER FILE CABINET		
Description:	Seized Per Warrant PACKING SLIPS/SHIPPING/RETURN DOCS FROM TOP AND BOTTOM DRAWERS.		
Control #:	4	Evidence Box:	3
Location:	WAREHOUSE	Locator Code:	R
Found:	SE CORNER QUARANTINE AREA		
Description:	Seized Per Warrant PRODUCTS IN THE "RETURN" BIN CONTAINING APPROX (20) OXYPRO PRODUCTS PILLS AND POWDERS,		
Control #:	5	Evidence Box:	4
Location:	WAREHOUSE	Locator Code:	R
Found:	SE CORNER		
Description:	Seized Per Warrant LOCKED GREY SHRED BIN		
Control #:	6	Evidence Box:	6
Location:	WAREHOUSE	Locator Code:	R
Found:	WAREHOUSE PALLET ROWS		
Description:	Seized Per Warrant ROW K OXYELITE PRO ADVANCED PALLET #9		
Control #:	7	Evidence Box:	7
Location:	WAREHOUSE	Locator Code:	R
Found:	WAREHOUSE PALLET ROWS		
Description:	Seized Per Warrant ROW K OXYELITE PRO ADVANCED PALLET #10		

Control #:	8	Evidence Box:	8
Location:	WAREHOUSE	Locator Code:	R
Found:	WAREHOUSE PALLET ROWS		
Description:	Seized Per Warrant ROW K OXYELITE PRO ADVANCED PALLET #11		
Control #:	9	Evidence Box:	9
Location:	WAREHOUSE	Locator Code:	R
Found:	WAREHOUSE PALLET ROWS		
Description:	Seized Per Warrant ROW K OXYELITE PRO ADVANCED PALLET #12		
Control #:	10	Evidence Box:	10
Location:	WAREHOUSE	Locator Code:	R
Found:	STAGING AREA		
Description:	Seized Per Warrant WRAPPED PALLET OF 2700 BOTTLES LABELED OXYELITE PRO PT		
Control #:	11	Evidence Box:	11
Location:	WAREHOUSE	Locator Code:	R
Found:	STAGING AREA		
Description:	Seized Per Warrant WRAPPED PALLET OF 2700 BOTTLES LABELED OXYELITE PRO PT		
Control #:	12	Evidence Box:	12
Location:	WAREHOUSE	Locator Code:	R
Found:	STAGING AREA		
Description:	Seized Per Warrant WRAPPED PALLET OF 2700 BOTTLES LABELED OXYELITE PRO PT		
Control #:	13	Evidence Box:	13
Location:	WAREHOUSE	Locator Code:	R
Found:	WAREHOUSE PALLET ROWS		
Description:	Seized Per Warrant WRAPPED PALLET OF 2700 BOTTLES LABELED OXYELITE PRO PT		
Control #:	14	Evidence Box:	14
Location:	WAREHOUSE	Locator Code:	R
Found:	STAGING AREA		
Description:	Seized Per Warrant WRAPPED PALLET OF 2700 BOTTLES LABELED OXYELITE PRO PT		
Control #:	15	Evidence Box:	15
Location:	WAREHOUSE	Locator Code:	R
Found:	QUARANTINE AREA		
Description:	Seized Per Warrant WRAPPED PALLET OF 2040 BOTTLES LABELED OXYELITE POWDER		

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Control #:	16	Evidence Box:	16
Location:	WAREHOUSE	Locator Code:	R
Found:	QUARANTINE AREA		
Description:	Seized Per Warrant	WRAPPED PALLET OF 2040 BOTTLES LABELED OXYELITE POWDER	
Control #:	17	Evidence Box:	17
Location:	WAREHOUSE	Locator Code:	R
Found:	QUARANTINE AREA		
Description:	Seized Per Warrant	WRAPPED PALLET BOTTLES OXYELITE PRO PILLS 90 PER BOX, APPROX 864 BOTTLES	
Control #:	18	Evidence Box:	1
Location:	WAREHOUSE	Locator Code:	R
Found:	ROOM Y STAGING		
Description:	Seized Per Warrant	CLIPBOARD "DIANA" WITH EMAIL RECORDS INVENTORY SHEETS	
Control #:	19	Evidence Box:	1
Location:	WAREHOUSE	Locator Code:	R
Found:	ROOM Y FILE CABINET BOTTOM DRW		
Description:	Seized Per Warrant	INVENTORY LOG BOOKS	
Control #:	20	Evidence Box:	1
Location:	WAREHOUSE	Locator Code:	R
Found:	ROOM Y OUTBOUND SHIPPING AREA		
Description:	Seized Per Warrant	INVENTORY CONTROL CARD WITH LOT NOTEBOOKS.	
Control #:	21	Evidence Box:	1
Location:	WAREHOUSE	Locator Code:	R
Found:	ROOM Y OUTBOUND SHIPPING AREA		
Description:	Seized Per Warrant	RETURN/REJECTED PRODUCT LOG	
Control #:	22	Evidence Box:	1
Location:	CUBICLE	Locator Code:	AA
Found:	FILE CABINET UNDER DESK		
Description:	Seized Per Warrant	ACCOUNTING ENTITY STRUCTURE	
Control #:	23	Evidence Box:	1
Location:	CUBICLE	Locator Code:	CC
Found:	CUBICLE		
Description:	Seized Per Warrant	INVENTORY REPORTS ACCOUNTING LEDGER RECORDS	

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Control #:	24	Evidence Box:	1
Location:	NICHOLAS BOURDELOT	Locator Code:	II
Found:	DESK		
Description:	Seized Per Warrant INVOICES		
Control #:	25	Evidence Box:	1
Location:	NICHOLAS BOURDELOT	Locator Code:	II
Found:	OFFICE		
Description:	Seized Per Warrant 1 BOTTLE OXYELITE PRO POWDER AND 1 BOTTLE OXYELITE PRO PILLS		
Control #:	26	Evidence Box:	18
Location:	UPSTAIRS CABINET	Locator Code:	VV
Found:	SAMPLE CABINET		
Description:	Seized Per Warrant OXYELITE 2 WITH AEGELINE CAPSULES, OXYELITE PRO, NEW OXY, OXYELITE POWDER		
Control #:	27	Evidence Box:	1
Location:	CUBICLES	Locator Code:	U
Found:	CUBICLE IN WAREHOUSE		
Description:	Seized Per Warrant DOCUMENTS RELATED TO OXYELITE PRO		
Control #:	28	Evidence Box:	1
Location:	OFFICE UPSTAIRS	Locator Code:	GG
Found:	OFFICE		
Description:	Seized Per Warrant MISCELLANEOUS PAPERS/ACCOUNTING INFORMATION		
Control #:	29	Evidence Box:	1
Location:	CABINET	Locator Code:	HH
Found:	BOX ON GROUND		
Description:	Seized Per Warrant OXYELITE STATE TAX RECORDS		
Control #:	30	Evidence Box:	1
Location:	COPIER AREA	Locator Code:	EE
Found:	FLOOR BY COPIER		
Description:	Seized Per Warrant PAPER WORK WITH OXYELITE AND VERSA DOCUMENT INFORMATION		
Control #:	31	Evidence Box:	1
Location:	CUBICLES	Locator Code:	T
Found:	ON DESK		
Description:	Seized Per Warrant USP LAB INVOICES, PURCHASE ORDERS, ACCOUNTS PAYABLE, FREIGHT BILLS, STATEMENT OF ORIGIN		

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Control #:	32	Evidence Box:	1
Location:	WAREHOUSE	Locator Code:	R
Found:	WAREHOUSE AREA		
Description:	Seized Per Warrant INVENTORY CONTROL LOG AND INCOMING MATERIAL LOG		
Control #:	33	Evidence Box:	1
Location:	NATOYA GREATHOUSE	Locator Code:	SS
Found:	OFFICE AREA		
Description:	Seized Per Warrant OXYELITE PRO SALES RECORDS AND AN EMAIL		
Control #:	34	Evidence Box:	19
Location:	WORK AREA	Locator Code:	Y
Found:	WORK AREA		
Description:	Seized Per Warrant TEN BOXES CONTAINING EMPTY BOTTLES OF OXYELITE PRO		
Control #:	35	Evidence Box:	1
Location:	KATRINA GIVENS	Locator Code:	FF
Found:	ON DESK		
Description:	Seized Per Warrant MISC DOCUMENTS INCLUDING, BANK ACCOUNT NUMBERS AND LOG IN INFORMATION, INVOICES AND PURCHASES, INCOME STATEMENT, SALES TAX BILLS, SALES AND PROFITS, STOCK STATUS, VARIOUS EMAILS AND FINANCIAL DOCUMENTS		
Control #:	36	Evidence Box:	1
Location:	IRENE BERNSTEIN	Locator Code:	PP
Found:	DESK AREA		
Description:	Seized Per Warrant DOCUMNETS (INVOICES, FINANCIAL)		
Control #:	37	Evidence Box:	20
Location:	WAREHOUSE	Locator Code:	R
Found:	REJECT AREA		
Description:	Seized Per Warrant 47 BOTTLES OF OXYELITE PRO		
Control #:	38	Evidence Box:	21
Location:	WAREHOUSE	Locator Code:	R
Found:	REJECT AREA		
Description:	Seized Per Warrant 264 COUNT OXYELITE PRO BOTTLES		
Control #:	39	Evidence Box:	22
Location:	WAREHOUSE	Locator Code:	R
Found:	REJECT AREA		
Description:	Seized Per Warrant 213 BOTTLES OF OXYELITE PRO		

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Control #:	40	Evidence Box:	1
Location:	HEATHER HALL	Locator Code:	RR
Found:	DESK AREA		
Description:	Seized Per Warrant PAPERWORK - STOCK, STATUS AND PRODUCT INFORMATION		
Control #:	41	Evidence Box:	1
Location:	HEATHER HALL	Locator Code:	RR
Found:	SHRED BOX		
Description:	Seized Per Warrant OXYELITE ORDERS, FORMS INVOICES/PACKING LISTS INVENTORIES, PRODUCT PLANNING REPORTS		
Control #:	42	Evidence Box:	1
Location:	GEORGE WILSON	Locator Code:	W
Found:	DESK TOP		
Description:	Seized Per Warrant OXYELITE PRO SALES AFTER OCT 8, 2013		
Control #:	43	Evidence Box:	1
Location:	GEORGE WILSON	Locator Code:	W
Found:	ONTOP OF OVERHEAD STORAGE		
Description:	Seized Per Warrant OEP PRODUCT INVOICES		
Control #:	44	Evidence Box:	23
Location:	GEORGE WILSON	Locator Code:	W
Found:	OVERHEAD STORAGE		
Description:	Seized Per Warrant PRODUCT LABELS AND USP LABS SHIPPING PROTOCOL		
Control #:	45	Evidence Box:	23
Location:	GEORGE WILSON	Locator Code:	W
Found:	TOP OF FILE CABINET		
Description:	Seized Per Warrant OXYELITE BATCH RECORDS		
Control #:	46	Evidence Box:	23
Location:	GEORGE WILSON	Locator Code:	W
Found:	TOP OF FILE CABINET		
Description:	Seized Per Warrant AEGELINE PURCHASE ORDERS		
Control #:	47	Evidence Box:	23
Location:	GEORGE WILSON	Locator Code:	W
Found:	FILE DRAWER		
Description:	Seized Per Warrant DMAA OXYELITE AEGELINE DOCUMENTS		

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Control #:	55	Evidence Box:	23
Location:	JOSEPH RAPHAEL	Locator Code:	X
Found:	DESK		
Description:	Seized Per Warrant FILE FOLDERS CONTAINING MISC BUSINESS PRODUCT INFORMATION		
Control #:	56	Evidence Box:	23
Location:	JOSEPH RAPHAEL	Locator Code:	X
Found:	DESK		
Description:	Seized Per Warrant BUSINESS/PRODUCT INFORMATION, SHIPPING INFORMATION, FDA INFORMATION RE:DMAA		
Control #:	57	Evidence Box:	24
Location:	JOSEPH RAPHAEL	Locator Code:	X
Found:	TOP DESK DRAWER		
Description:	Seized Per Warrant ONE OPENED BOTTLE OXYELITE PRO, ONE SEALED BOTTLE OXYELITE PRO NEW FORMULA, ONE SEALED PACKET OXYELITE PRO NEW FORMULA		
Control #:	58	Evidence Box:	24
Location:	JOSEPH RAPHAEL	Locator Code:	X
Found:	DESK/CREDENZA		
Description:	Seized Per Warrant MISC BUSINESS DOCUMENTS, SHIPPING INFORMATION, OXYELITE PRODUCT INFORMATION ETC...		
Control #:	59	Evidence Box:	24
Location:	COPIER AREA	Locator Code:	EE
Found:	BY COPIER IN BOX WITH "SHRED ONLY" ON IT		
Description:	Seized Per Warrant DOCUMENTS PERTAINING TO OXYELEITE ORDERS, COMPLAINTS, INVENTORIES, SALES, ETC... AND FINANCIAL DOCUMENTS		
Control #:	60	Evidence Box:	24
Location:	CUBICLES	Locator Code:	V
Found:	CUBICLE AREA		
Description:	Seized Per Warrant DOCUMENTS RELATED TO OXYELITE DISTRIBUTION		
Control #:	61	Evidence Box:	25
Location:	CUBICLE	Locator Code:	QQ
Found:	DESK		
Description:	Seized Per Warrant OXYELITE DOCUMENTATION		

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Control #:	62	Evidence Box:	26
Location:	CUBICLE	Locator Code:	QQ
Found:	DESK		
Description:	Seized Per Warrant OXYELITE DOCUMENTATION		
Control #:	63	Evidence Box:	27
Location:	CUBICLES CUBICLES	Locator Code:	
Found:	CUBICLE		
Description:	Seized Per Warrant DOCUMENTS RELATED TO VERSA AND OXYELITE PRO		
Control #:	64	Evidence Box:	28
Location:	CABINET AREA	Locator Code:	TT
Found:	CABINETS		
Description:	Seized Per Warrant OXY DOCS - QA		
Control #:	65	Evidence Box:	24
Location:	JACOB GEISSLER	Locator Code:	N
Found:	DESKTOP		
Description:	Seized Per Warrant 1. OPEN AR 2. GNC RETURNS OXYELITE 3. VITAMIN SHOPPE OXYELITE RETURNS		
Control #:	66	Evidence Box:	24
Location:	STORAGE UPSTAIRS	Locator Code:	UU
Found:	STORAGE AREA		
Description:	Seized Per Warrant 2012-BILLING BOX INVOICES		
Control #:	67	Evidence Box:	24
Location:	STORAGE UPSTAIRS	Locator Code:	UU
Found:	IN BOX		
Description:	Seized Per Warrant IN BOX MARKED "CUST INU EUROPA JAN-SEPT 2012"		
Control #:	68	Evidence Box:	24
Location:	CHAD CROSBY	Locator Code:	P
Found:	DESKTOP		
Description:	Seized Per Warrant SALES ORDERS OXYELITE, INVOICES, OPEN ORDERS, BACKLOG REPORTS OXYELITE		
Control #:	69	Evidence Box:	29
Location:	CABINET AREA	Locator Code:	TT
Found:	CABINET		
Description:	Seized Per Warrant OXY QA DOCS		

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Control #:	78	Evidence Box:	32
Location:	CABINET AREA	Locator Code:	TT
Found:	CABINET		
Description:	Seized Per Warrant	OXY Q&A FILES, CUSTOMER COMPLAINT FILES, AEGELINE INFO FILES	
Control #:	79	Evidence Box:	33
Location:	STORAGE UPSTAIRS	Locator Code:	UU
Found:	STORAGE AREA		
Description:	Seized Per Warrant	BOX LABELED INTERNET ORDERS AND CS COMPS 2012	
Control #:	80	Evidence Box:	34
Location:	STORAGE UPSTAIRS	Locator Code:	UU
Found:	STORAGE AREA		
Description:	Seized Per Warrant	COMPS AND COMPLAINTS MAR 13- JUN 13	
Control #:	81	Evidence Box:	35
Location:	LONNIE CLARK	Locator Code:	LL
Found:	OFFICE AREA		
Description:	Seized Per Warrant	FINANCIAL STATS, TAX RETURNS, BANK ACCOUNT RECORDS, BANK STATEMENTS, OXYELITE PROMOTIONAL MATERIAL, PRODUCT RETURNS, OXYELITE SALES DATA, AEGELINE PURCHASE RECORDS, ADVERTISING INFO, PRODUCT COST REPORTS	
		ITEMS LOCATED IN 3 BANKER BOXES	
Control #:	82	Evidence Box:	36
Location:	ADAM SCHWINGHAMMER	Locator Code:	M
Found:	OFFICE		
Description:	Seized Per Warrant	USP LABS RESEARCH CREDIT REFERENCE INFO VITATECH FOLDER BUDGET Q4 2013 FILE PACKING LIST SHIPNET - PANAMA RAW MATERIAL SPECIFICATION BOOK 1. OXYELITE PRO, ULTRA-INTENSE (90 CAPSULES) 2 BOTTLES 2. OXYELITE PRO, SUPER THERMO POWDER (4.8OZ)	
Control #:	83	Evidence Box:	37
Location:	CUBICLE	Locator Code:	E
Found:	FILE CABINET		
Description:	Seized Per Warrant	MULTI OXYELITE BATCH RECORD DOCS	

Control #:	84	Evidence Box:	38
Location:	LORENA MACIAS	Locator Code:	K
Found:	ON BOOKSHELF		
Description:	Seized Per Warrant PRODUCT SPECIFICATIONS AND INSPECTION CHECKLIST		
Control #:	85	Evidence Box:	30
Location:	JACOB GEISSLER	Locator Code:	N
Found:	DESKTOP IN BOX		
Description:	Seized Per Warrant 2 BOTTLES OXYELITE PRO		
Control #:	86	Evidence Box:	30
Location:	CUBICLES	Locator Code:	V
	CUBICLES		
Found:	FILE CABINET		
Description:	Seized Per Warrant OXYELITE LOGS/INFORMATION		
Control #:	87	Evidence Box:	30
Location:	BARNEY VELASQUEZ	Locator Code:	F
Found:	DESK		
Description:	Seized Per Warrant 2 BOTTLES OXYELITE PRO 3 PACKETS OXYELITE PRO POWDER		
Control #:	88	Evidence Box:	30
Location:	BARNEY VELASQUEZ	Locator Code:	F
Found:	DESK		
Description:	Seized Per Warrant OXYELITE PRO DOCUMENTS, COMPLAINTS, ADVERSE EVENTS CHART, FDA INSPECTION NOTES		
Control #:	89	Evidence Box:	30
Location:	BARNEY VELASQUEZ	Locator Code:	F
Found:	DESK		
Description:	Seized Per Warrant OXYELITE PRO FILES/LAB REPORTS		
Control #:	90	Evidence Box:	30
Location:	BARNEY VELASQUEZ	Locator Code:	F
Found:	DESK		
Description:	Seized Per Warrant DMAA/OXYELITE DOCUMENTS/LAB INFO- LABORATORY NOTEBOOK		
Control #:	91	Evidence Box:	30
Location:	BARNEY VELASQUEZ	Locator Code:	F
Found:	DESK		
Description:	Seized Per Warrant OXYELITE PRO FILES/DOCUMENTS/LABELS/LABELING INFORMATION		

Control #:	92	Evidence Box:	39
Location:	STORAGE ROOM	Locator Code:	S
Found:	STORAGE ROOM		
Description:	Seized Per Warrant 146 BOTTLES OXYELITE PRO 90 CAPSULES		
Control #:	93	Evidence Box:	40
Location:	BARNEY VELASQUEZ	Locator Code:	F
Found:	CUBICLEDESKTOP		
Description:	Seized Per Warrant FILE FOLDERS WITH OXYELITE PRO INFORMATION - LAB TESTS - COMPLAINTS		
Control #:	94	Evidence Box:	41
Location:	STORAGE UPSTAIRS	Locator Code:	UU
Found:	STORAGE AREA		
Description:	Seized Per Warrant DOMESTIC ORDERS APR-JUNE2013 A-G		
Control #:	95	Evidence Box:	42
Location:	CUBICLES CUBICLES	Locator Code:	V
Found:	FLOOR NEXT TO CUBICLE		
Description:	Seized Per Warrant DOCUMENTS PERTAINING TO OXYELITE		
Control #:	96	Evidence Box:	43
Location:	KATRINA GIVENS	Locator Code:	FF
Found:	TOP FILE CABINET		
Description:	Seized Per Warrant 1. GNC 2013 PM PROGRAM REQUEST FORM 2. CREDIT MEMO - OXY		
Control #:	97	Evidence Box:	43
Location:	KATRINA GIVENS	Locator Code:	FF
Found:	UNDER DESK		
Description:	Seized Per Warrant 1. OXYELITE RECORDS: EMAILS SALES ORDERS, INTERNATIONAL ORDERS, STATE SALES TAX, FINANCIALS, CHASE WIRE TRANSFER REQUESTS, PURCHASING RECEIVED LOG, A/P AGING, OWRKD ORDER, CREDIT MEMOS 2. CHASE BANK STATEMENTS, FIRST DATA CREDIT CARD STATEMENTS		
Control #:	98	Evidence Box:	43
Location:	LORENA MACIAS	Locator Code:	K
Found:	OFFICE		
Description:	Seized Per Warrant ADVERSE EVENTS FILES RELATED TO OXYELITE PRO/CUSTOMER COMPLAINTS		

Control #:	99	Evidence Box:	44
Location:	STORAGE UPSTAIRS	Locator Code:	UU
Found:	OFFICE		
Description:	Seized Per Warrant BOX LABELED 2013 JAN-MAR DOMESTIC ORDERS H-Z AND INTERNATIONAL ORDERS, A-Z UPS SHIPPING LOGS		
Control #:	100	Evidence Box:	45
Location:	STORAGE UPSTAIRS	Locator Code:	UU
Found:	OFFICE		
Description:	Seized Per Warrant BOX OF DOMESTIC ORDERS 2013 JAN-MAR A-G		
Control #:	101	Evidence Box:	46
Location:	STORAGE UPSTAIRS	Locator Code:	UU
Found:	OFFICE		
Description:	Seized Per Warrant BOX LABELED "COMPS AND COMPLAINTS AND UPS LOG 2013-2013		
Control #:	102	Evidence Box:	47
Location:	STORAGE ROOM	Locator Code:	S
Found:	STORAGE AREA		
Description:	Seized Per Warrant 94 BOTTLES OXYELITE PRO 90 CAPSULES		
Control #:	103	Evidence Box:	48
Location:	STORAGE ROOM	Locator Code:	S
Found:	STORAGE AREA		
Description:	Seized Per Warrant 47 BOTTLES OXYELITE PRO CLEAR WRAP 180 CASPULE BOTTLES		
Control #:	104	Evidence Box:	49
Location:	STORAGE ROOM	Locator Code:	S
Found:	STORAGE AREA		
Description:	Seized Per Warrant 50 OXYELITE PRO POWDER 130 G CONTAINERS		
Control #:	105	Evidence Box:	50
Location:	OFFICE	Locator Code:	B
Found:	OFFICE		
Description:	Seized Per Warrant OXYELITE PRO SAMPLE PACKS, OXYELITE PRO SAMPLE BOTTLES, OXYELITE PRO PROMOTIONAL MATERIALS, SALES REP SALES RECORDS		
Control #:	106	Evidence Box:	51
Location:	CABINET AREA	Locator Code:	TT
Found:	NEXT TO FILE CABINETS		
Description:	Seized Per Warrant BOX OF OXYELITE PILLS/POWDERS		

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Control #:	107	Evidence Box:	52
Location:	CABINET	Locator Code:	HH
Found:	CABINET		
Description:	Seized Per Warrant FINANCIAL DOCS/TAX DOCS		
Control #:	108	Evidence Box:	53
Location:	KATRINA GIVENS	Locator Code:	FF
Found:	FILE CABINET		
Description:	Seized Per Warrant GNC AND OTHER COMPANIES DOCUMENTS RELATED TO OXY PRODUCTS		
Control #:	109	Evidence Box:	54
Location:	KENNETH MILES	Locator Code:	L
Found:	DESK		
Description:	Seized Per Warrant RAW MATERIALS FOLDER PRO-TECH NUTRACEUTICAL FOLDER PCI FOLDER 2012 COMPLAINTS 2013 COMPLAINTS DOCS RELATED TO COA DOCS RELATED TO STABILITY STUDY DOCS RELATED TO NHP CONSULTING MEDWATCH REPROT FOLDER OEP FOLDER WITH EMAILS		
Control #:	110	Evidence Box:	55
Location:	STORAGE UPSTAIRS	Locator Code:	UU
Found:	STORAGE AREA		
Description:	Seized Per Warrant USP LAB INVOICES INVOLVING OXYELITE PRO AND VERSA		
Control #:	111	Evidence Box:	43
Location:	RECEPTION	Locator Code:	C
Found:	OFFICE		
Description:	Seized Per Warrant INVOICE FROM PEGASUS LOGISTICS FOR AEGELINE		
Control #:	112	Evidence Box:	43
Location:	OFFICE	Locator Code:	A
Found:	OFFICE		
Description:	Seized Per Warrant MISC DOCS INVOICES, SALES DATA, ARTICLES, ADVERTISEMENTS		
Control #:	113	Evidence Box:	43
Location:	KATRINA GIVENS	Locator Code:	FF
Found:	BIN		
Description:	Seized Per Warrant BIN ABOVE FILING CABINET BEHIND DESK ADVANCE REMITTANCE'S - OXY PRODUCTS		

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Control #:	114	Evidence Box:	43
Location:	KATRINA GIVENS	Locator Code:	FF
Found:	FILE CABINET		
Description:	Seized Per Warrant	SALES AND USE TAX LICENSES AND TAX RETURNS FOR OXYELITE, ADVANCE REMITTANCES, EMAILS RE: CREDITS AND VARIOUS STATES RETURNS OF OXYELITE	
Control #:	115	Evidence Box:	43
Location:	KATRINA GIVENS	Locator Code:	FF
Found:	BOX UNDER DESK		
Description:	Seized Per Warrant	VARIOUS OXY RECORDS - INVOICES, PACKING SLIPS, ACCOUNTING REPORTS, ADVANCE REMITTANCES, EMAILS, PROMOTIONS CHASE BANK STATEMENTS FOR USP LABS LLC 7/2013, 8/2013, 9/2013	
Control #:	116	Evidence Box:	43
Location:	CUBICLE	Locator Code:	D
Found:	CUBICLE		
Description:	Seized Per Warrant	DOCUMENTS RELATED TO OXYELITE PRO	
Control #:	117	Evidence Box:	43
Location:	STORAGE ROOM	Locator Code:	S
Found:	STORAGE AREA		
Description:	Seized Per Warrant	3 TWENTY-ONE CAPSULES BOTTLES OF OXYELITE PRO	
Control #:	118	Evidence Box:	43
Location:	STORAGE ROOM	Locator Code:	S
Found:	STORAGE AREA		
Description:	Seized Per Warrant	1 TEN CAPSULE OXYELITE PRO BOTTLE	
Control #:	119	Evidence Box:	56
Location:	STORAGE ROOM	Locator Code:	S
Found:	STORAGE AREA		
Description:	Seized Per Warrant	45 OXYELITE PRO POWDER PACKETS 4.34G	
Control #:	120	Evidence Box:	56
Location:	STORAGE ROOM	Locator Code:	S
Found:	STORAGE AREA		
Description:	Seized Per Warrant	41 TWO CAPSULE OXYELITE PRO PACKETS	
Control #:	121	Evidence Box:	56
Location:	STORAGE ROOM	Locator Code:	S
Found:	STORAGE AREA		
Description:	Seized Per Warrant	43 TWO PACKET CAPSULES OF OXYELITE PRO	

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Control #:	122	Evidence Box:	56
Location:	STORAGE ROOM	Locator Code:	S
Found:	STORAGE AREA		
Description:	Seized Per Warrant 49 OXYELITE PRO POWDER PACKETS 4.34G		
Control #:	123	Evidence Box:	56
Location:	STORAGE ROOM	Locator Code:	S
Found:	STORAGE AREA		
Description:	Seized Per Warrant 3 SIXTY CAPSULE OXYELITE PRO BOTTLES		
Control #:	124	Evidence Box:	57
Location:	BARNEY VELASQUEZ	Locator Code:	F
Found:	CUBICLE		
Description:	Seized Per Warrant 11 SEALED BOTTLES OXYELITE PRO SUPER THERMO - ONE SEALED JAR OXYELITE PRO SUPER THERMO POWDER		
Control #:	125	Evidence Box:	57
Location:	OFFICE	Locator Code:	A
Found:	OFFICE		
Description:	Seized Per Warrant OXYELITE PRO POWDERS, PILLS, SAMPLE PKGS/VERSA-1 PILLS		
Control #:	126	Evidence Box:	57
Location:	BARNEY VELASQUEZ	Locator Code:	F
Found:	OPEN PKGS IN CUBICLE		
Description:	Seized Per Warrant 7 RETURNED BOTTLES OF OXYELITE PRO SUPER THERMOGENIC WITH PACKAGES		
Control #:	127	Evidence Box:	57
Location:	BARNEY VELASQUEZ	Locator Code:	F
Found:	BOX IN CUBICLE		
Description:	Seized Per Warrant 3 SEALED EMPTY BOTTLES OXYELITE PRO ULTRA-INTENSE THERMO 3 SEALED EMPTY BOTTLES OXYELITE PRO SUPER THERMO		
Control #:	128	Evidence Box:	57
Location:	BARNEY VELASQUEZ	Locator Code:	F
Found:	TOP FILE DRAWERS		
Description:	Seized Per Warrant TOP OF FILE DRAWERS/FILE CADDY ON CUBICLE WALL - FDA DOCUMENTS OXYELITE INFO - AEGELINE INFO		
Control #:	129	Evidence Box:	57
Location:	BARNEY VELASQUEZ	Locator Code:	F
Found:	FILE DRAWER		
Description:	Seized Per Warrant OXYELITE FILE FOLDERS - OPEN COMPLAINTS FOLDER		

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Control #:	130	Evidence Box:	57
Location:	BARNEY VELASQUEZ	Locator Code:	F
Found:	ABOVE SHELF		
Description:	Seized Per Warrant 16 BOTTLES OXYELITE PRO (1X180CT, 13 X 90 CT (EMPTY), 2 X 10 CT		
Control #:	131	Evidence Box:	58
Location:	KATRINA GIVENS	Locator Code:	FF
Found:	TOP OF DESK		
Description:	Seized Per Warrant TAINT		
Control #:	132	Evidence Box:	58
Location:	ADAM SCHWINGHAMMER	Locator Code:	M
Found:	OFFICE		
Description:	Seized Per Warrant TAINT		
Control #:	133	Evidence Box:	59
Location:	STORAGE UPSTAIRS	Locator Code:	UU
Found:	STORAGE AREA		
Description:	Seized Per Warrant 1. BOX LABLED OCT-DEC 2012 BILLING 2. BOX LABLED INTERNATIONAL DOMESTIC 2011 ORDERS		
Control #:	134	Evidence Box:	59
Location:	STORAGE UPSTAIRS	Locator Code:	UU
Found:	STORAGE AREA		
Description:	Seized Per Warrant BOX LABLED 2012 AP PAYABLES		
Control #:	135	Evidence Box:	60
Location:	SERVER ROOM	Locator Code:	BB
Found:	SERVER		
Description:	Seized Per Warrant FORENSIC COMPUTER IMAGES FROM SERVERS ROOM K,O,L,LL		

EXHIBIT B

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ORIGINAL

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PN, LLC, and GNC Corporation

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

AUG 19 2014

at 10 o'clock and 5 min. A.M.
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

NICHOLAS AKAU,

Plaintiff,

vs.

USPLABS, LLC, et al.

Defendants.

) CIVIL NO. CV14-00029 LEK/KSC

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~~PROPOSED~~ STIPULATED
PROTECTIVE ORDER

MALISSA IGAFO,) CIVIL NO. CV14-00030 LEK/KSC
)
Plaintiff,)
)
vs.)
)
USPLABS, LLC, et al.)
)
Defendants.)
_____)

CALVIN ISHIHARA,) CIVIL NO. CV14-00031 LEK/KSC
)
Plaintiff,)
)
vs.)
)
USPLABS, LLC, et al.)
)
Defendants.)
_____)

GAY ANNE MATTSON,) CIVIL NO. CV14-00032 LEK/KSC
)
Plaintiff,)
)
vs.)
)
USPLABS, LLC, et al.)
)
Defendants.)
_____)

KENNETH WAIKIKI,) CIVIL NO. CV13-00639 LEK/KSC
)
Plaintiff,)
)
vs.)
)
USPLABS, LLC, et al.)
)
Defendants.)
_____)

~~PROPOSED~~ STIPULATED PROTECTIVE ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Parties executing this stipulation, by and through their respective counsel of record, that in order to facilitate the exchange of information and documents which may be subject to confidentiality limitations on disclosure due to federal laws, state laws, and privacy rights, the Parties stipulate as follows:

1. **SCOPE:** This Order governs the handling of all documents, testimony and information produced, given or filed herein by any party and designated as "CONFIDENTIAL." A party designating such documents, testimony or information as "CONFIDENTIAL" is herein referred to as a DESIGNATING PARTY.
2. **CONFIDENTIAL INFORMATION:** A DESIGNATING PARTY may designate as "CONFIDENTIAL" any document, testimony or information the DESIGNATING PARTY believes in good faith to contain confidential, personal, business, financial, trade secret or other proprietary information by conspicuously writing, typing or stamping on the face of such document, answer or transcript the word "CONFIDENTIAL" or by otherwise notifying

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all counsel in writing, and, in the case of deposition transcripts and exhibits, also the court reporter. Any documents, testimony or information designated as “CONFIDENTIAL” by a DESIGNATING PARTY is herein referred to as CONFIDENTIAL INFORMATION.

3. **CHALLENGES:**

- 3.1 Should any party object to the designation of a document, testimony or information as “CONFIDENTIAL,” such party may apply to the Court, after giving the DESIGNATING PARTY reasonable notice thereof and making good faith efforts to resolve the dispute informally, for a ruling that the CONFIDENTIAL INFORMATION shall not be so treated. Until this Court enters an Order, if any, changing the designation of the CONFIDENTIAL INFORMATION, such CONFIDENTIAL INFORMATION shall be treated by all parties in accordance with this Order.
- 3.2 Except upon further Order of this Court or as required by law, CONFIDENTIAL INFORMATION shall be disclosed only to the Court, counsel of record for the parties (and their administrative staffs on a “need to know” basis), the parties, their insurance carriers and consulting or testifying experts retained by the parties (the “PERMITTED RECIPIENTS”).

4. **USE:**

- 4.1 All CONFIDENTIAL INFORMATION shall be used solely for the preparation for and use at the trial of this action and shall not be used or disclosed by any receiving person for any other purpose, including any commercial or business purpose.
- 4.2 Counsel of record in this litigation receiving CONFIDENTIAL INFORMATION shall be allowed to disclose them or their contents to

any other person only upon order of the Court or upon receipt of written permission from opposing counsel granting such disclosure.

- 4.3 Counsel may permit expert(s) hired by any party in anticipation of litigation to review CONFIDENTIAL INFORMATION, but counsel must first obtain from each expert a written statement confirming the expert's agreement to comply with every element of this Protective Order. Said expert shall agree that the CONFIDENTIAL INFORMATION shall not be disclosed to any other person and said documents shall not be photocopied or reproduced by any other means.

5. **CLAW-BACK:**

- 5.1 The inadvertent production by any of the undersigned Parties or non-Parties to this action of any document, testimony or information during discovery in this action without a "CONFIDENTIAL" designation, shall be without prejudice to any claim that such item is "CONFIDENTIAL" and such Party shall not be held to have waived any rights by such inadvertent production.
- 5.2 In the event that any document, testimony or information that is subject to a "CONFIDENTIAL" designation is inadvertently produced without such designation, the Party that inadvertently produced the document shall give written notice of such inadvertent production within twenty (20) days of discovery of the inadvertent production, together with a further copy of the subject document, testimony or information designated as "CONFIDENTIAL" (the "INADVERTENT PRODUCTION NOTICE"). Upon receipt of such INADVERTENT PRODUCTION NOTICE, the Party that received the inadvertently produced document, testimony or information shall

promptly destroy the inadvertently produced document, testimony or information and all copies thereof, or, at the expense of the producing Party, return such together with all copies of such document, testimony or information to counsel for the producing Party and shall retain only the designated CONFIDENTIAL MATERIAL.

- 5.3 This provision is not intended to apply to any inadvertent production of any Information protected by attorney-client or work product privileges. In the event that this provision conflicts with any applicable law regarding waiver of confidentiality through the inadvertent production of documents, testimony or information, such law shall govern.

6. **NON-WAIVER:**

- 6.1 Notwithstanding the foregoing provisions, this Order shall be without prejudice to the right of any party to challenge the propriety of discovery on any grounds including, but not limited to, relevance, privilege and materiality.
- 6.2 Notwithstanding the foregoing provision, this Order shall not restrict in any manner the right of any party to offer or use as evidence at the trial of this action any CONFIDENTIAL INFORMATION, and nothing contained herein shall be construed as a waiver of any objection which might be raised as to the admissibility at trial of any evidentiary material.

7. **FILING:**

- 7.1 No party or non-party shall file or submit for filing as part of the court record any documents under seal without first obtaining leave of court. Notwithstanding any agreement among the parties, the party

seeking to file a paper under seal bears the burden of overcoming the presumption in favor of public access to papers filed in court.

8. **RETURN:** All CONFIDENTIAL INFORMATION, and all copies of CONFIDENTIAL INFORMATION, shall be returned to counsel for the DESIGNATING PARTY, or destroyed, within thirty (30) days of the conclusion of this action, whether by dismissal, settlement or entry of judgment. All CONFIDENTIAL INFORMATION so returned shall be accompanied by an affidavit of the returning counsel attesting to the fact that no copies have been retained and that any and all copies known to them have been destroyed.

9. **MISCELLANEOUS:**

- 9.1 This Order may be modified by further order of this Court or by agreement of counsel for the parties, subject to the approval of the Court, provided that any such agreement be memorialized in the form of a stipulation that shall be filed with the Clerk and made a part of the record in the case.
- 9.2 If any person subject to this Order who has custody of any CONFIDENTIAL INFORMATION receives a subpoena or other process from any government or other person or entity demanding production of CONFIDENTIAL INFORMATION, the recipient of the subpoena shall promptly give notice of the same by electronic mail transmission, followed by either express mail or overnight delivery to counsel of record for the DESIGNATING PARTY, and shall furnish such counsel with a copy of the subpoena. Upon receipt of this notice, the DESIGNATING PARTY may, in its sole discretion and at its own cost, move to quash or limit the subpoena, otherwise oppose production of the CONFIDENTIAL INFORMATION, and/or seek to

obtain confidential treatment of such CONFIDENTIAL INFORMATION from the subpoenaing person or entity to the fullest extent available under law. The recipient of the subpoena may not produce any CONFIDENTIAL INFORMATION pursuant to the subpoena prior to the date specified for production on the subpoena.


- 9.3 This Order shall continue to be binding after the conclusion of this action and all subsequent proceedings arising from this action, except that a Party may seek the written permission of the DESIGNATING PARTY or may move the Court for relief from the provisions of this Order. To the extent permitted by law, the Court shall retain jurisdiction to enforce, modify, or reconsider this Order, even after the action is terminated.
- 9.4 After this Order has been signed by counsel for all Parties, it shall be presented to the Court for entry. Counsel agree to be bound by the

[Remainder of the page left blank]

terms set forth herein with regard to any CONFIDENTIAL
INFORMATION that has been produced before the Court signs this
Order.

SO STIPULATED AND AGREED:

ANDREWS & THORNTON

By: 
ANNE ANDREWS
JOHN C. THORNTON
SEAN T. HIGGINS

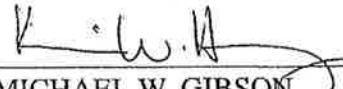
WAYNE PARSON LAW OFFICES

By: 
WAYNE D. PARSONS

Attorneys for Plaintiff

ASHFORD & WRISTON

A Limited Liability Law Partnership LLP

By: 
MICHAEL W. GIBSON
KEVIN W. HERRING
MICHAEL R. VIEIRA

Attorneys for Defendants USPlabs, LLC,
Jonathan Vincent Doyle, Jacob Geissler,
USPlabs OxyElite, LLC, USPlabs
OxyElite PN, LLC, and GNC
Corporation

APPROVED AND SO ORDERED:


UNITED STATES MAGISTRATE JUDGE